

### **REMARKS**

The Office Action mailed March 19, 2009 has been carefully considered by Applicant. Reconsideration is respectfully requested in view of the foregoing claim amendments and the remarks that follow.

#### **Claim Rejections Under 35 U.S.C. §112**

Claims 9-28 have been rejected as failing to comply with the enablement requirement. The claims are hereby amended to overcome this rejection. Specifically, the claims are amended to indicate that the plurality of cylinder segments, when connected together in series, form a *substantially cylindrical center portion*. The Examiner is correct that the cylindrical center portion may not in fact be an exact "circular shape of constant radius". However, it will be understood from a reading of the specification by one skilled in the art that the notches 10, 12 can be sized and spaced so as to accommodate the corresponding fastening hooks 36 in the described interchangeable manner so that the cylinder segments 30 can be attached to either of the inner notches 10 or outer notches 12. The "curvature of the cylindrical segments" does not "prevent the segments from creating" the claimed *substantially cylindrical center portion*.

The rejection under §112 is therefore believed overcome and rendered moot by the amendments and the aforementioned description. Withdrawal of the rejection under §112 is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. §103**

Claims 9-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yarnell et al U.S. Patent No. 5,967,454 in view of Salloum U.S. Patent No. 5,004,179 and in further view of Zuk et al U.S. Patent No. 5,791,590. Claims 13-16 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yarnell et al '454 in view of Salloum '179 and in further view of Zuk et al '590 and in further view of Faulkner U.S. Patent No. 5,474,254. Claim 17 is rejected under 35 U.S.C. §103(a) as being

unpatentable over Yarnell et al '454 in view of Salloum '179 and in further view of Zuk et al '590 and in further view of Dobson U.S. Patent No. 819,866. Claim 18 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yarnell et al '454 in view of Salloum '179 and in further view of Zuk et al '590 and in further view of Campbell U.S. Patent No. 3,940,085. Claims 20-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yarnell et al '454 in view of Salloum '179 and in further view of Zuk et al '590. Claims 24-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yarnell et al '454 in view of Salloum '179 and in further view of Zuk et al '590 and in further view of Faulkner '254.

The aforementioned claim rejections are respectfully traversed.

#### Claim 9

The Examiner has not set forth a *prima facie* case of obviousness with respect to claim 9. The fact is that none of the references cited by the Examiner disclose the claimed modular reel device *wherein the pair of opposing end flanges are each configured to separably connect to substantially cylindrical center portions having different diameters*. The Examiner seems to admit this fact, yet still rejects the claim based upon his unsupported and technically incorrect opinion in paragraph 5 of the Office Action that:

At the time of the invention, it would have been obvious to a person of ordinary skill in this art to design the cylindrical segments (of Yarnell) so that increasing the number of segments increases the diameter of the cylinder. The motivation for the design would be to design the cylindrical segments 20 (of Yarnell) so that they are capable of composing different diameters, such as the diameters of grooves (or notches) 26 and 28.

Yet the art does not support the Examiner's opinion and in fact teaches exactly the opposite.

An explicit object of Yarnell is to provide a reel "having minimal assembly components that may be quickly assembled and disassembled". To this end, Yarnell teaches end flanges each having a single substantially circular channel configured to mate with a reel core having a single diameter. There is no modularity provided with

respect to the diameter of the reel core. The arrangement of Yarnell in fact prevents an arrangement per claim 9 because it teaches curved outer edges of the core that mate in the similarly curved channels. Adding or subtracting sections to the core 20 to change the diameter would prevent a mating connection with the fixed diameter of the channels 18.

The passage in Yarnell cited by the Examiner does not support his conclusory statements. What the passage actually states is that the number of stave sections 20 can be varied at a manufacturing step to increase or decrease the fixed core diameter described above. Of course, the channel diameter would also need to be varied during manufacturing to correspond to the number of stave sections and the "degree of angular arch" of each stave section would need to be modified. This does not change the fact that Yarnell et al teaches providing end flanges having a single channel 18 for receiving and mating with a core having a single diameter. Yarnell does not teach the modular arrangement of claim 9, *wherein the pair of opposing end flanges are each configured to separably connect to substantially cylindrical center portions having different diameters.*

The remaining references fail to fill the void left by Yarnell. Salloum, and Campbell each disclose end flanges that mate with a core having a single diameter. The modular arrangement of claim 9 is simply not disclosed. Zuk also teaches an arrangement wherein a core having a single diameter is attached to end flanges 12, 14. The Examiner's statement that "the motivation for the design would be to design the cylindrical segments 20 (of Yarnell) so that they are capable of composing different diameters, such as the diameters of grooves (or notches) 26 and 28" seems to imply that Zuk is configured to separably connect to substantially cylindrical center portions having different diameters. This is simply not the case. While the grooves 26, 28 are radially spaced apart, the grooves are specifically configured to correspond with flaps 36 and tabs 38 formed along one edge of a hub 16. See column 6, lines 18-20. Again, this is the opposite of what is claimed in claim 9.

The Examiner's statements are based entirely in hindsight and are not sufficient to support a *prima facie* case of obviousness. Not only does the prior art fail to teach or

suggest the claimed structural combination, it also fails to even recognize the possibility of such a combination. The applicant alone has discovered that known reel devices, such as taught by Yarnell, Salloum, Faulkner, Campbell, Zuk, etc. lack modularity. Applicant alone has provided an elegant solution to this problem. This unique solution is not taught in the art and in fact is prevented by the arrangements taught in the art.

Reel devices have been used in the art for decades and to date there has been no disclosure that anticipates the unique arrangement of claim 9. This is highly probative of the non-obviousness of the claimed arrangement.

Applicant thus respectfully requests withdrawal of the rejection. If the Examiner maintains his position in light of the several non-obvious distinctions set forth above, it is respectfully requested that the Examiner provide documentary evidence in any next Office Action in support of such positions. The Examiner must provide documentary evidence in the next Office Action if the rejection is to be maintained. See 37 C.F.R. §1.104(c)(2). If the Examiner continues to rely on personal knowledge to support the finding of what is known in the art, the Examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 C.F.R. §1.104(d)(2). Official notice without documentary evidence to support the Examiner's conclusion is permissible only in rare circumstances and never as the principal evidence upon which a rejection is based.

If any newly cited reference is added for reasons other than to support the prior conclusory statements and any new ground of rejection is introduced by the Examiner that is not necessitated by Applicant's amendment of the claims, the rejection may not be made final. See MPEP §2144 and 706.07(a). Here, the amendment to overcome the rejections under §112 do not effect the thrust of the Examiner's conclusions under §103. Withdrawal of the rejection is thus appropriate and earnestly solicited.

#### Claims 10-28

Claims 10-28 depend directly or indirectly from claim 9 and thus are also in condition for allowance in accordance with the comments provided above.

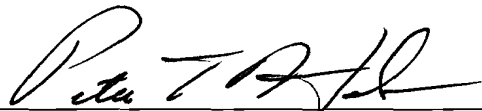
Application No. 10/595,342  
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Reply to Office Action of March 19, 2009

**Conclusion**

The present application is thus believed in condition for allowance. Such action is respectfully requested.

Respectfully submitted,

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